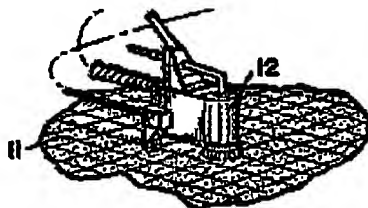


### Remarks

Applicants thank Supervisory Primary Examiner Dye for extending to the undersigned attorney the courtesy of an in-person interview on Friday, October 15, 2004. The substance of the interview is correctly summarized in the Interview Summary form prepared by SPE Dye during the interview. As requested by SPE Dye, the arguments presented at the interview are set out below.

#### Rejection of Claims 38 – 40 and 45 – 47 Under 35 USC §112, First Paragraph

Claims 38 – 40 and 45 – 47 were rejected under 35 U.S.C. §112, first paragraph, on grounds that claim 45's recitation of "a tile floor whose tiles have a floor surface" constitutes subject matter not described in the specification. The quoted language is abundantly supported throughout the specification, e.g., in the Title, at page 2, lines 1 – 6, page 9, line 16 through page 10, line 2, page 3, lines 9 – 19, page 39, lines 13 – 14 and in Fig. 1:



As agreed to during the interview, this rejection should be withdrawn.

#### Rejection of Claims 38 – 40 and 45 – 47 Under 35 USC §112, Second Paragraph

Claims 38 – 40 and 45 – 47 were rejected under 35 U.S.C. §112, second paragraph, on grounds that claim 45's recitation of "a tile floor whose tiles have a floor surface" is not clear. Persons having ordinary skill in the art will readily understand from the specification passages cited above (and from everyday experience) that the recited tiles when normally installed underfoot can collectively form a floor, that the phrase "floor surface" indicates the installed tiles' upper surface, that a new tile is one that has not become worn, soiled, and slippery over time after being subjected to abrasion and surface wear due to foot traffic, soils and daily

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surface cleaning, and that the recited small peaks and valleys are characteristic of new quarry tile. As agreed to during the interview, this rejection should be withdrawn.

**Rejection of Claims 38 – 40 and 45 – 47 Under 35 USC §102(b)**

Claims 38 – 42 and 45 were rejected under 35 U.S.C. §102(b) as being anticipated by American Olean Co. CANYON RED™ tile, on grounds that:

*"if the instant claims have a tile floor having an elemental composition substantially the same as that of the core of a new, untreated tile, then the elemental composition of the claimed tile floor is the same as what is commercially sold by American Olean Co. (the Canyon Red™ tile). The core of a new untreated tile would inherently be expected to function as the substantially the same elemental composition of the claimed tile floor and thus inherently exhibit the slip-resistant property. Further, by Applicant's own admission, quarry tile naturally has microscopic (small) peaks and valleys at pg. 3, lines 5-6. Tiles are well known as flooring material having surfaces. coefficient of friction is an inherent property of the tile itself. Because the instant claim states the tile floor is "substantially the same" as a new untreated tile, then how is the tile floor different from what is already sold?"*

The rejection appears to have overlooked the word "surface" in claim 45 and claim 45's recitation of a tile floor whose tiles have a floor surface that "has an elemental composition substantially the same as that of the core of a new, untreated tile". This is not the case for new CANYON RED tile, as may be seen for example from the experimental results at page 49, line 11 through page 51, line 18. Reconsideration and withdrawal of this rejection are requested.

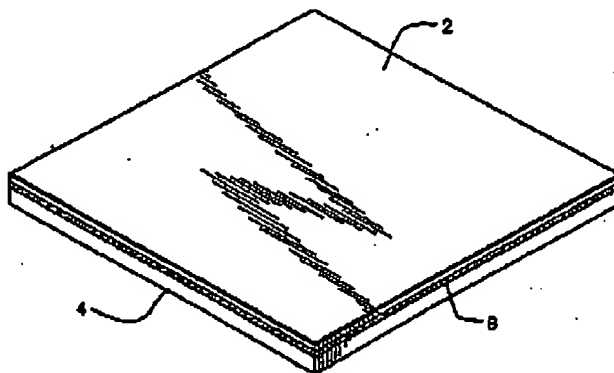
**Rejection of Claims 38 – 42 and 45 Under 35 USC §102(b)**

Claims 38 – 42 and 45 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,314,554 (Owens). As noted above, claim 45 recites a tile floor whose tiles have a floor surface that "has an elemental composition substantially the same as that of the core of a new, untreated tile". Owens' tiles have a natural stone upper layer 2 and a "ceramic

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subsurfacing unit" 4 joined together with a bonding material 6 (see e.g., col. 6, lines 4 – 6 and 51 – 65 and Fig. 2):

**FIG. 2**

The floor surface of natural stone layer 2 would not have an elemental composition substantially the same as that of the core of a new, untreated tile. As agreed to during the interview, this rejection should be withdrawn.

#### Conclusion

Applicants have made an earnest effort to address the rejections and to explain why they should be withdrawn. Passage of their application to the Issue Branch is requested.

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